

**AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY
MINUTES OF A PUBLIC HEARING**

DATE..... December 3, 2003
TIME..... 7:00 P.M.
PLACE..... CO. OFFICE BLDG.
20 N. 3RD STREET
LAFAYETTE IN 47901

MEMBERS PRESENT

Mark Hermodson
Gary Schroeder
Jean Hall
Steve Clevenger
Ralph Webb
Bruce Junius

MEMBERS ABSENT

Edward Weast

STAFF PRESENT

James Hawley
Sallie Fahey
Krista Trout
Michelle D'Andrea
Jay Seeger, Atty.

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 3rd day of December 2003, at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Mark Hermodson called the meeting to order.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes of the October 22, 2003 public hearing. Steve Clevenger seconded and the motion carried by voice vote.

II. NEW BUSINESS

Sallie Fahey informed the Board that **BZA-1647—JOHN M. & MIMI PEZZUTO** had been withdrawn by the petitioner and no further action was needed. She stated that **BZA-1652- SIGNART, INC** needed to be continued to the January 28, 2004 meeting because of failure to post signs.

III. PUBLIC HEARING

Gary Schroeder moved that there be incorporated into the public hearing portion of each application to be heard this evening and to become part of the evidence at such hearing, the Unified Zoning Ordinance, the Unified Subdivision Ordinance, the Comprehensive Plan, the By-laws of the Area Board of Zoning Appeals, the application and all documents filed therewith, the staff report and recommendation on the application to be heard this evening and responses from the checkpoint agencies. Steve Clevenger seconded and the motion carried by voice vote.

Gary Schroeder moved to continue **BZA-1652- SIGNART, INC** to the January 28, 2004 meeting. Steve Clevenger seconded and the motion carried by voice vote.

Mark Hermodson waived the reading the meeting procedures due to the small size of the audience.

1. **BZA-1646—NEW DIRECTIONS, INC.:** Petitioner is requesting a special exception to allow the operation of a alcohol and drug rehabilitation and residential center (SIC 836) with accessory vocational rehabilitation and job training center (SIC 833) in the AW zone operating 24 hours a day, 7 days a week on property located at 360 N 775 E, Perry 2(NW)23-3. (UZO 3-2) CONTINUED FROM THE SEPTEMBER MEETING AT PETITIONER'S REQUEST. THIS CASE MUST BE HEARD THIS MONTH.

Gary Schroeder moved to hear and vote on the above-described request. Steve Clevenger seconded the motion.

Krista Trout presented slides of the zoning map, 2 aerial photos, 6 site plans and 9 pictures. She read the staff report and recommendation of approval.

Judy Kuehn, President and CEO of New Directions, 360 N. 775 E., Lafayette, IN, concurred with the staff report. She informed the Board that the grant they had applied for had been granted and they now have the funding to continue the project.

Jean Hall asked if there was more than one request, or just one special exception.

Sallie Fahey stated that there was a request for one special exception, in which the primary use would be the drug treatment facility and the accessory use would be the job training program.

Jean Hall asked why there was a minimal parking requirement of four spaces for a house that is allowed six residents with cars.

Sallie Fahey explained that it was not treated as a single-family house; it was considered part of the use. She pointed out that there was space for 4 cars on the house lot and additional room across the street at the main facility.

Bruce Junius asked how many people were typically being treated at this location at one time.

Judy Kuehn stated that currently they had 24 residents, plus the 6 across the street. She said that the total campus could house 30 residents. She stated that the facility is full 95% of the time.

Steve Clevenger asked if parking was restricted to this site plan or if more spaces could be added.

Sallie Fahey stated that they could add parking if necessary.

The Board voted by ballot 6 to grant –0 to deny thus granting **BZA-1646—NEW DIRECTIONS, INC.**

2. **BZA-1649—KRISTEN E. MCVEY:** Petitioner is seeking a variance to allow an 18' rear setback instead of the required 25' in order to construct a second story onto an existing home on property located at 174 Sumac Drive, West Lafayette, Wabash 17(NW)23-4. (UZO 4-2-2) CONTINUED FROM THE OCTOBER MEETING BECAUSE OF A FILING ERROR. WITH CONDITION.

Gary Schroeder moved to hear and vote on the above-described request. Steve Clevenger seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos, site plan and 5 pictures. She read the staff report with recommendation of denial.

Kristen McVey, 174 Sumac Drive, West Lafayette, IN, stated that when she purchased the house, she was aware that it was in poor condition and needed many repairs and upgrades. She said that she was willing to invest in these renovations because of the location and view the home had. She explained that she was in error by not obtaining a demolition permit or permission for the dumpster. She said that immediately after finding out those were requirements, she received the proper approvals. She stated that the issue of whether or not the building could support a second story, would be addressed in the building permit process, which could not begin until this Board votes. She stressed that she was also concerned with this issue and has been in contact with an engineering firm to conduct these tests. She stated that this would cause a hardship because the section that is non-conforming is a great room and to change it would mean constructing huge columns and beams in the middle of the room, an obstruction of the view. She said that this would also require huge amounts of money for tearing out the middle of the house and ripping up the basement floor. She stated that she is asking for minimum relief because she is only asking to work with what she has, and that is the structure as it currently stands. She said that she is not asking for any further encroachment of the rear setback, other than 20" out to place a fruit in the southwest corner. She reiterated that the house is in poor condition and these renovations would be an improvement to the neighborhood and community. She presented a handout to the Board including

pictures of the existing structure and computer renderings of the proposed renovations. She reviewed the handout page by page and explained each photo.

Michael Gay, 106 Sumac Drive, West Lafayette, IN, stated that he lived directly across the street and was in support of this proposal. He said that he has reviewed the computer renderings and believes that this will improve the neighborhood and his view. He stated that this proposal would not cause any harm.

Tom King, 1712 Fernleaf Drive, West Lafayette, IN, stated that he supports this request. He said that it would be a shame to obscure the view.

Diane Teder, 3327 Humboldt Road, West Lafayette, IN, stated that she owned property on Happy Hallow Road and was very much in favor of this request. She said that the plans are beautiful and would add a great deal to the neighborhood.

Ralph Webb asked what assurance they would have that the building would be constructed according to the hand out, if this were approved.

Sallie Fahey asked that the Board add a condition because of the new information about the possible tireut. She explained that if a variance is granted, it is granted only to the situation shown in the site plan. She said that the current site plan does not show the additional encroachment. She suggested the current site plan be substituted for the site plan in the handout. She said that the assurance they would have would be that only the approved site plan could be built. She stated that there would not be an assurance pertaining to the design.

Ralph Webb moved to add a condition requiring the substitution of the site plan presented at the meeting for the one filed with the petition. Steve Clevenger seconded the motion.

Mark Hermodson asked if the petitioner concurred with that condition.

Kristen McVey concurred with the condition and asked that they approve it.

The Board voted by voice vote to add the condition referenced above.

Jean Hall stated that the plans looked very nice, but that the Board does not vote on aesthetics. He said that he was concerned because this request came only after a certain amount of work was done and being an attorney, the petitioner should have been aware of the requirements.

Kristen McVey stated that it could only be explained by her lack of experience. She informed the Board that she has only been out of law school one year and does not practice property law with any regularity. She stated that she knew that she had to have building permits to do any work, but that demolition permits never occurred to her. She reiterated that it was an oversight on her part and she immediately remedied the situation.

Bruce Junius stated that he could understand the lack of experience, but questioned whether or not the structure could support a second story.

Kristen McVey stated that when she submits the final plans to the building permit department, she will also have the certified engineering report, confirming the foundation and soil conditions.

The Board voted by ballot 6 to grant –0 to deny thus granting **BZA-1649—KRISTEN E. MCVEY** with one condition.

3. **BZA-1651—SUSAN R. BAYLEY, WILLIAM G. BAYLEY, AND DARLENE FANNING:** Petitioners are requesting a special exception to permit an instructional facility for cheerleading and tumbling classes classified under SIC 7999—Amusement and Recreation (indoor) to operate 7 days a week from 9 am to 10 pm in Suite C (6896 sq. ft.)

of the INOK building located at 3601 Sagamore Parkway, Lafayette, Fairfield LR(NW)23-4. (UZO 3-2) WITH CONDITION.

Gary Schroeder moved to hear and vote on the above-described request. Steve Clevenger seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos, 2 site plans and 9 pictures. She read the staff report with recommendation of conditional approval contingent on the following:

- A site plan delineating the 35 ordinance required parking spaces.

Daniel Teder stated that the petitioners were present and the reason for their request was to expand their business. He said that the hours of operations were from 9 am to 10 pm, 7 days a week and all utilities were present. He pointed out that the surrounding areas were all industrial. He stated that there were 400 parking spaces designated and many more available. He mentioned that the ordinance requires 35 spaces and a site plan showing them was provided to staff. He stated that there was lighting over the entrance and if necessary the landlord was willing to provide more lighting. He stated that they have met all requirements of the ordinance and this request will not cause any harm to anyone. He concurred with the staff report.

Jean Hall mentioned that there is a specific guideline for identifying the number of parking spaces required, and in this case the number is 35. He stated that in some cases the Board must decide if less spaces than the guideline requires would be acceptable. He commended the petitioner for taking into account that there may be occasions where more than the 35 spaces were needed. He asked if it would be allowable to request a commitment saying 80 spaces were available, since a condition was not allowed.

Jay Seeger stated that the Board couldn't require anything greater than the standards set out by the ordinance.

Jean Hall pointed out that the Board could not require a condition, but asked if they could require a commitment.

Jay Seeger stated that the petitioner could volunteer to make a commitment, but the Board could not ask nor impose a commitment.

Jean Hall stated that he had difficulty approving something that does not adequately fulfill the parking needs.

Daniel Teder pointed out that 65,000 square feet of this facility is Purdue warehousing. He presented the over-all site plan and reviewed the 400 spaces that were available.

Jean Hall asked how many spaces were reasonably close to this entrance.

Daniel Teder replied 40 spaces and pointed them out on the site plan.

Sallie Fahey informed the Board that when she visited the site, she was invited to tour the inside of the building. She stated that she suggested to the building manager that as this site develops, it would be beneficial to have a prearranged parking plan to determine what parking would be assigned to what use. She said that the manager was working on a plan and would review it with staff and the City Engineer's Office when completed. She informed the Board that staff was working on an amendment to the ordinance that had to do with shared parking.

The Board voted by ballot 6 to grant –0 to deny thus granting **BZA-1651—SUSAN R. BAYLEY, WILLIAM G. BAYLEY, AND DARLENE FANNING.**

5. **BZA-1653—LINK MANAGEMENT, INC.:** Petitioner is seeking a sign variance to allow 111.67 sq. ft. of signage instead of the maximum permitted 72.6 sq. ft. for a new bank located at 351 Sagamore Parkway W, West Lafayette, Wabash 7(SE)23-4. (UZO 4-8-5).

Gary Schroeder moved to hear and vote on the above-described request. Steve Clevenger seconded the motion.

Krista Trout presented slides of the zoning map, 2 aerial photos, 2 site plans and nine pictures. She read the staff report with recommendation of denial.

Daniel Teder recapped the request and reviewed the adjacent properties. He pointed out that the speed limit was recently changed and if it had remained, there would be no need for this request. He stressed that most of the traffic would be derived from the rear of the site and should be considered a second frontage. He said that if a second frontage were considered, then they would be well under the requirement, regardless of the speed limit. He presented pictures to the Board of the neighboring businesses. He stated that the neighboring business had over 163 feet of signage and direct access from the road, which put the petitioner at a disadvantage. He said that the request is reasonable and unique because of the secondary frontage.

Bruce Junius asked how the neighboring business was able to get so much signage.

Daniel Teder stated that they have been there over 25 years and the origins of their signs are not known.

Jean Hall asked if the speed limit was a major determination of the amount of signage allowed and if there were other factors such as traffic counts, traffic lights or stop signs.

Sallie Fahey stated that there are 4 basic factors that determine the signage; zoning district, speed limit, distance of building from the road and how much of the total allowed is in the freestanding sign.

Jean Hall asked for confirmation that in regards to the road only speed limit was accounted for and not traffic.

Sallie Fahey explained that road speed also determined number of lanes.

Jean Hall asked that if they had access only onto a frontage road and not 52, if that would reduce amount of signage allowed.

Sallie Fahey stated that there was a section of the ordinance that stated that if the only access were a frontage road, they would be able to count the speed limit of the main road.

Jean Hall asked for staff's opinion on the 163+ square feet that the neighboring business had.

Sallie Fahey stated that staff did not calculate the actual signage of the neighbor and were more concerned with which sides of the building were covered.

Jean Hall asked whether the neighboring business was on an intersection.

Sallie Fahey replied affirmatively.

Steve Clevenger asked if there was a plan to make a road in the back since the land was in the process of becoming a PD.

Sallie Fahey stated that there have been some preliminary discussions on the PD, but no plans have been submitted yet.

Steve Clevenger asked that if there were a road there for the PD, would that allow additional signage.

Sallie Fahey replied that it would have to be a public road.

Daniel Teder requested that the petition be reduced by 20 square feet by taking out one of the signs.

Ralph Webb asked for a definite answer as to where the speed limit sign was located.

Daniel Teder stated that it was a few feet past Nighthawk.

Mark Hermodson stated that a lot of work went into the sign ordinance and he thinks it is a fair ordinance.

The Board voted by ballot 2 to grant —4 to deny thus granting **BZA-1653—LINK MANAGEMENT, INC.**

Yes votes

Gary Schroeder
Jean Hall

No votes

Mark Hermodson
Bruce Junius
Ralph Webb
Steve Clevenger

6. **BZA-1654—DOUGLAS & CYNTHIA GARWOOD:** Petitioners are seeking a variance to allow a 2.5' side setback instead of the required 6' to construct a new detached garage on an existing slab on property located at 3507 E 200 N, Fairfield 14(NE)23-4. (UZO 4-2-2)

Gary Schroeder moved to hear and vote on the above-described request. Steve Clevenger seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos, 4 site plans and four pictures. She read the staff report with recommendation of denial.

Douglas Garwood, 3507 E. 200 N., Lafayette, IN, reviewed the slide of the site plan. He stated that the County Health Department did not have the septic plan on file. He pointed out the areas of the property which had adequate soils for the septic system. He said that the well was serviced a year ago and the area to access the well was very narrow and caused large ruts in the land. He explained that the main reason for the request was to allow enough space to service the well. He stated that proposed variance was at the intersection of 3 properties and would not have adverse affects on the neighbors because any future buildings would be setback from those property lines. He said that he tried to be considerate of the neighbors view when determining the height of the building.

Sallie Fahey read the following letter into the record, in favor of the request:

Ronald and Janet Wallace, 3519 E 200 N, Lafayette, IN.

Bruce Junius asked for the dimensions of the property.

Douglas Garwood stated that it was 85 feet wide and 1,200 feet deep. He said that most the lots in this subdivision were 2.5 acres. He reviewed the sizes of the other lots in the subdivision.

Bruce Junius asked if buying an additional 6 feet was an option.

Douglas Garwood said that he would love to, but did not think it was an option without a subdivision.

Bruce Junius asked if others in the neighborhood had the same problems, if all the lots were the same size.

Douglas Garwood stated that the acreage was the same but the dimensions changed because of the flow of the creek. He explained that what caused the problem for him was the location of the septic system and well.

Jean Hall asked to see the first slide again. He pointed out that this site seemed to be the narrowest.

Douglas Garwood pointed out that the 2 adjacent lots were the same width, but the neighbors owned 2 lots.

Sallie Fahey pointed out that the lots could still be sold separately and still be the same size.

Ralph Webb asked if he wanted to build the same size garage in the same place.

Douglas Garwood stated that the proposed structure was 8 feet longer than the existing structure.

Jean Hall asked if there was an existing concrete pad that would have to be extended 8 feet.

Douglas Garwood replied affirmatively.

Steve Clevenger asked if he planned on extending the existing pad, or replacing the entire pad.

Douglas Garwood replied that he would be extending the existing pad.

Bruce Junius asked if he was extending deeper into the property.

Douglas Garwood replied affirmatively.

James Hawley stated that the staff was concerned with the site plan that showed the eaves of the building overhanging the original foundation. He explained that this would allow the structure to be only $\frac{1}{2}$ of a foot from the property line.

Douglas Garwood explained that he had overlaid 2 buildings and the overhang he was referring to was part of the existing building.

James Hawley asked if that was roofline or wall line.

Douglas Garwood pointed out the roof and wall lines. He stated that at most it was a 6" overhang.

James Hawley explained that the ordinance would allow that overhang to extend an additional 2 feet.

Bruce Junius asked if the neighbors were in favor of this request.

Douglas Garwood stated that before he filed the request he consulted both neighbors and they said that it would not be a problem for them.

Jean Hall asked if there was an overhang problem with the existing garage.

James Hawley stated the existing overhang was only 6", but the ordinance would allow up to a two-foot overhang.

Jean Hall asked if it was allowable to attach a condition, restricting it to only 6".

James Hawley reiterated that the ordinance would still permit an additional 2-foot overhang because it was not specifically shown on the site plan.

Douglas Garwood stated that even though the ordinance would allow that, he would not be able to because there is a power line in the way.

James Hawley questioned whether there was an easement for that power line along the property line.

Jean Hall asked if a continuance was needed in order to investigate that easement.

James Hawley stated that a continuance might be appropriate because this is the first time that staff was aware there was a power line.

Douglas Garwood stated that he did have the power company visit the site and they did not have a concern.

Jean Hall stated that the power company might be happy that he is not encroaching on power lines, but it still might not meet the ordinance requirement.

Douglas Garwood pointed out that the power line would have been installed after the building was in place and they would not have installed it if it were a problem.

Mark Hermodson stated that was not necessarily true.

Jean Hall pointed out that the ordinances have changed over the years.

Jay Seeger stated that there is a concern if there is an easement there or not.

Jean Hall stated that he did not want to hold the petitioner back, but he did not feel comfortable voting on something that he did not have all the facts on.

Jean Hall moved to continue **BZA-1654—DOUGLAS & CYNTHIA GARWOOD** to the January 28, 2004 Area Board of Zoning Appeals meeting in order to investigate new information regarding possible easements on the property. Steve Clevenger seconded the motion.

Bruce Junius agreed that if all the facts regarding the possible easement were not known, then it should be further investigated. He asked if the situation was being further complicated, when all the petitioner was doing was extending the existing structure.

Ralph Webb asked who would complete the investigation if this motion was carried.

James Hawley stated that the staff would do the investigating.

Sallie Fahey stated that they would first check the subdivision plat.

Douglas Garwood stated that the plat was so old there were no covenants or easements.

Sallie Fahey stated that they might have to trace deeds to see if easements were attached later on.

Douglas Garwood stated that the power line was put in 25-30 years ago, and is about the same age as the adjacent property.

Ralph Webb asked the petitioner if a continuance would pose a hardship to him.

Douglas Garwood stated no, because he would not be able to do concrete work this time of year anyway.

The motion was carried by voice vote.

Mark Hermodson stated that unless any member has an objection the chair will order the findings of each member casting a vote for the majority decision of the Board to be the collective findings of the Board in support of the decision of the Board. Hearing none, it is so ordered.

IV. ADMINISTRATIVE MATTERS *None*

V. ADJOURNMENT

Gary Schroeder moved to adjourn the meeting. Steve Clevenger seconded and the motion carried by voice vote.

The meeting adjourned at 8:50 P.M.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "M. D'Andrea".

Michelle D'Andrea
Recording Secretary

Reviewed by,

Krista Trout
Current Planner